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**(2009) 1 AWC 324 : (2008) 105 RD 783**

**Allahabad High Court**

**Case No:** None

| | |
|---|---|
| Smt. Ram Murti Devi | APPELLANT |
| Vs | |
| State of U.P. and Additional Commissioner, Kanpur Division | RESPONDENT |

**Date of Decision:** Sept. 17, 2008

**Citation:** (2009) 1 AWC 324 : (2008) 105 RD 783

**Hon'ble Judges:** Rajes Kumar, J

**Bench:** Single Bench

**Final Decision:** Allowed

**Judgement**

Rajes Kumar, J.
By means of present petition, the petitioner is challenging the order of the Additional Commissioner, Kanpur Division,

Kanpur dated 15.2.2008 by which the revision was filed by the petitioner against the order of the Collector, Kannauj dated 6.5.2000 has been

confirmed. By the order dated 6.5.2000, the name of the petitioner from the revenue record has been expunged in respect of the land in dispute.

2. Learned Counsel for the petitioner submitted that the petitioner has purchased the land in dispute on 27.6.1966 from Zamindar Sri Ganga Vijai

Bahadur against the registered sale deed dated 27.6.1966. The copy of the sale deed is Annexure-1 to the writ petition, and on the basis of the

sale deed, the name of the petitioner has been recorded in the revenue record. He submitted that without giving any notice or any opportunity of

hearing of any manner whatsoever the name of the petitioner from the revenue record has been expunged which was recorded in the year 1966.

He submitted that the Collector, Kannauj has arrived to an erroneous conclusion that the entry in the revenue record is forged and, therefore, the

petitioner is not entitled for the opportunity of hearing. The view of the Additional Commissioner, Kanpur Division, Kanpur in the revision is also

illegal that no opportunity is required to be given where the entry in the revenue record is found to be forged. He submitted that this Court in the

case of Chaturgun and Ors. v. State of U.P. and Ors. reported in 2005 (1) CRC 422 on a consideration of decision of the Apex Court in the case

of U.P. Junior Doctors" Action Committee Vs. Dr B. Sheetal Nandwani and Others, and the various other Supreme Court judgements held that

before expunging the name of the person from the revenue record whose name is found recorded since last several years without giving

opportunity of hearing, is wholly unjustified.

3. Learned Standing Counsel submitted that let the matter be remanded back to the Collector, Kannauj to decide the matter afresh lifter giving

opportunity of hearing to the petitioner.

4. In the case of Chaturgun and Ors. v. State of U.P. and Ors. (Supra) this Court has considered the various decisions of the Supreme Court and

of this Court, including the decision of the Supreme Court in the case of Uttar Pradesh Judicial Doctors Action Committee v. Dr. B. Sheetal

Nandwani (Supra) and has held that before expunging the entry from the revenue record after the long period opportunity of hearing should be

provided.

5. Admittedly, in the present case, the name of the petitioner was I found entered in the revenue record since 1966, the petitioner claims to have

purchased the land in dispute from one Sri Ganga Vijai Bahadur, against the registered sale deed dated 27.6.1966 and, therefore, before

expunging the name of the petitioner from the revenue record, opportunity of hearing must be given. It is only the allegation that the entry made in

the name of the petitioner in the revenue record is forged. The allegation may be wrong also and is rebuttable. Such allegation can be proved

wrong only when the person is provided opportunity. Therefore, the petitioner must be given opportunity to prove his title towards the land in

dispute by adducing the necessary evidences and to rebut the allegation that the entry was forged. Admittedly, in the present case, the petitioner

has not been provided opportunity of hearing. Thus, there is a clear violation of principle of natural justice.

6. In the result, writ petition is allowed. The order of the Additional Commissioner, Kanpur Division, Kanpur dated 15.2.2008 in revision No. 30

of 2007 and the order of the Collector, Kannauj dated 6.5.2008 in suit No. 84 of 20C0, State v. Shiv Balak and Ors. are quashed. The matter is

remanded back to the Collector, Kannauj to decide the matter afresh after giving opportunity of, hearing to the petitioner. The petitioner is directed

to appear before the Collector, Kannauj along with certified copy of the order on 29.9.2008. The Collector, Kannauj either on the same day or on

any other day issue a notice giving opportunity of hearing to the petitioner to adduce the necessary evidences and after hearing the petitioner decide

the matter expeditiously. There shall be a status-quo till the decision by the Collector, Kannauj as on today.